

REMARKS/ARGUMENTS

This application has been carefully considered in light of the non-Final Office Action mailed January 4, 2005. In the non-Final Office Action claim 2 has been rejected under 35 U.S.C. § 102(b) as being directly anticipated by US Patent 6,006,944 to Machledt. Claim 2 has been rejected under 35 U.S.C. § 103(a) as being obvious and therefore unpatentable over US Patent 4,344,505 to Waters et al. when considered in view of US Patent 4,048,926 to Brush, Jr. et al.

Claim 3 has been rejected under 35 U.S.C. § 103(a) as being obvious and therefore unpatentable over Waters et al. and Brush, Jr. et al. when further considered in view of US Patent 4,832,153 to Daw et al. Claim 4 has been rejected over a combination of Waters et al. and Brush, Jr. et al. when further considered in view of US Patent 3,896,595 to Anghinetti et al.

Claim 7 has been rejected over Waters et al. and Brush, Jr. et al. when further considered in view of the teachings of US Patent 4,281,743 to Fuller and US Patent 5,628,158 to Porter.

Claims 14 and 27 have been rejected over the primary combination of Waters et al. and Brush, Jr. et al.

Claim 16 has been rejected under 35 U.S.C. § 103(a) as being obvious and therefore unpatentable over the combination of Waters

et al. and Brush, Jr. et al. when further considered in view of US Patent 4,302,126 to Fier. Claims 17 and 20 have been rejected over the combination of Waters et al. and Brush, Jr. et al. when further considered in view of US Patent 4,591,022 to Scianbi et al.

Claim 21 has been rejected under 35 U.S.C. § 103(a) as being obvious over the combination of Waters et al. and Brush, Jr. et al. and Scianbi et al. when further considered in view of US Patent 3,896,595 to Anghinetti et al.

Claim 22 has been rejected as being obvious over the combination of Waters et al. and Brush, Jr. et al. and further in view of the teachings of the reference to Anghinetti et al. and Claim 24 has been rejected as being obvious over the combination of Waters et al. and Brush, Jr. et al. when further considered in view of the references to Fuller and Porter.

Claim 25 has been rejected over the primary combination of Waters et al. and Brush, Jr. et al. when further considered in view of the reference to Daw et al.

Claims 2-4 and 7 have been cancelled without prejudice to applicant's right to file divisional or continuation applications with respect thereto. The issues thus remaining concern the rejections with respect to independent claim 14 and the claims that depend therefrom.

As discussed during the previous interviews with the Examiner, the present invention, as defined by independent claim 14, is directed to an insulated cover for access openings associated with attic trap doors and/or pull down attic ladders wherein the cover is specifically designed to create first and second seals relative to an insulated frame which is mounted about such opening. Such a double seal for use to insulate an opening into an attic is not disclosed by the prior art references taken alone or in combination.

The rejection of claim 14 over a combination of the teachings of Waters et al. and Brush, Jr. et al. has been considered, however, such a combination rejection for obviousness is not believed proper to anticipate the invention as defined by claim 14. It is respectfully submitted that the reference to Brush, Jr. et al. is non-analogous art in that it is directed to a safe having a door which is designed to lock against the body of the safe in such a manner that, should the safe be exposed to extreme temperatures during a fire, a seal will be created between the door and the body of the safe to protect the contents of the safe. It is respectfully submitted that one of ordinary skill in the art of housing insulation would not look to the art of safes to develop an insulating closure structure for an access opening to an attic. One would certainly not look to modify an

existing closure cover as disclosed by Waters et al. by modifying the closure to incorporate elements of a door for use with an insulated safe.

The Examiner's attention is directed to the provisions outlined in Section 2143 and 2143.01 of the MPEP wherein it is stated that three criteria must be met in order to establish a prima facie case of obviousness. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be reasonable expectation of success and, third the references when combined must teach or suggest all the claim limitations. It is submitted that the references relied upon do not provide any suggestion or motivation to make the combination.

"In determining the propriety of the Patent Office case for obviousness in the first instance, it is necessary to ascertain whether or not the reference teachings would appear to be sufficient for one of ordinary skill in the relevant art having the reference before him to make the proposed substitution, combination, or other modification" In re Linter, 428 F.2d 1013, 1016, 50 USPQ 560, 562 (CCPA 1972).

What is suggested and taught in the reference to Brush, Jr. et al. is not how to provide an improved double seal for an access opening, as is taught by the present application for patent, but how to create a seal between a door and a body of a

safe in the event of a fire wherein the seal is created of charred residue and a plasticized portion of a resin as a result of the materials forming the door and body of the safe being burned and pooling in a non-linear jamb region between the door and the body of the safe. The seal is created due to a fusing of the plastic resin which coats the body of the safe and the door but only upon the safe being exposed to temperatures which would burn such resin material. As noted at column 7 beginning at line 24 of the reference, the melting resin forms an automatic door seal for preventing entry of hot gases into the safe. Thus, the reference itself suggests that a seal is not created by the closure of the door relative to the body of the safe.

The reference to Brush, Jr. et al. also teaches away from providing an insulation barrier as taught by the present invention as a small breather hole 39 is provided in the door to prevent build up of gas pressure in the safe.

In view of the foregoing, it is respectfully submitted that there is nothing in the reference to Brush, Jr. et al. which suggests the desirability of modifying the reference to Waters et al. to change the door structure of Waters et al. The present application for patent teaches the desirability of creating a double seal to reduce heat losses in a cover for attic opening whereas the reference to Brush, Jr. et al. only teaches creating

a continuous single seal just inside a char line extending around the jamb region between a body of a safe and a door for closing an opening into the safe.

The reference to Waters et al. also does not teach or suggest the desirability of the proposed combination. Waters et al. discloses either pivoting their attic cover to a support frame or sliding the cover as described at column 3, beginning at line 10. The door jamb structures of Brush, Jr. et al. and the pivot structure of Waters et al. would have to be modified to create a first snug fit seal as defined by claim 14. Neither a hinged structure or a sliding structure would be easily adapted to use with a door and a frame having the jamb characteristics of Brush, Jr. et al.

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

In view of the foregoing, reconsideration of the rejection of claim 14 with respect to the combination of Brush, Jr. et al. and Waters et al. is respectfully requested.

As it is believed that the combination to Waters et al. and Brush, Jr. et al. does not anticipate claim 14, it is further respectfully submitted that the claims which depend from claim 14 are not anticipated by the other combinations outlined in the

non-Final Office Action. None of the secondary references relied upon in combination with the primary references to Waters et al. and Brush, Jr. et al. define an insulated cover for an attic access opening which would define a first inner seal and second seal overlying the frame surrounding an access opening as defined by claim 14. The claims which depend from claim 14 should be allowable for the same reasons as discussed above as well as for the additional elements defined by each. The secondary references include the references to Daw et al., Anghinetti et al., Fuller and Porter.

With respect to the rejection of claim 16, it is respectfully submitted that the reference to Fier is not obviously combinable with the references to Waters et al. nor Brush, Jr. et al. in order to create a structure as defined in claim 16. Fier is directed to a manhole cover which has a slight taper, however, there is no other structural indication how such a cover would be adapted to be combined with the teachings of the reference to Waters et al. in order to create a cover for an attic access opening having the tapered configuration as defined by claim 16 of the present application.

Concerning the rejection of claims 17 and 20, over the combination of Waters et al. and Brush, Jr. et al. with Scianbi et al., the reference to Scianbi et al. has been cited to show a

structure having a dependent portion extending from the sidewalls and configured to enter the access opening to engage a structural frame. However, the structure disclosed is provided only for aligning purposes and is not generally continuous as is disclosed by the present invention. Further, the structure disclosed does not provide a frictional seal against the structural frame as defined by claim 17.

The remaining claims which depend from claim 14 are also believed to be distinguishable with respect to the combination of art as cited in the non-Final Office Action.

In light of the foregoing, reconsideration of the grounds for rejection with respect to the claims pending in this application is respectfully requested. Should the Examiner have any further questions regarding the allowability of the claims with respect to the prior art, it would be appreciated if the Examiner would contact the undersigned attorney-of-record at the telephone number shown below.

Respectfully submitted,

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By 

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